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**TERMINAL DISCLAIMER TO OBIVATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)  
20269/1201776-US3

In re Application of: Jay D. Kranzler et al.

Application No.: 10/623,378

Filed: July 18, 2003

For: METHODS OF TREATING FIBROMYALGIA SYNDROME, CHRONIC FATIGUE SYNDROME  
AND PAIN

The owner, Cypress Bioscience, Inc., of \_\_\_\_\_ percent interest in the  
instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the

6,602,911/

instant application which would extend beyond the expiration date of the full statutory term of **prior patent** No. 6,635,675  
as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said **prior patent** is presently shortened  
by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable  
only for and during such period that it and the **prior patent** are commonly owned. This agreement runs with any patent granted  
on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant  
application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the **prior  
patent**, "as the term of said **prior patent** is presently shortened by any terminal disclaimer," in the event that said **prior patent**  
later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency,  
etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information  
and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements  
and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code  
and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 52,392

*Paul M. Zagar*  
Signature

*June 16, 2005*  
Date

06/21/2005 TBESHAH1 00000058 10623378

Paul M. Zagar  
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- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
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